

REMARKS

On page 4 of the Office Action, the Examiner contends that Applicants' citation of the New Oxford American Dictionary, Oxford Press (2001) on page 4 (third paragraph) of the amendment filed on August 15, 2002, is improper because the filing date of the application is October 27, 1997. Accordingly, the Examiner stated that it is improper to cite a dictionary published in the year 2001 as evidence for terms utilized in an application filed prior to the year 2001.

Applicants respectfully disagree with the Examiner. On October 16, 2002, the United States Court of Appeals for the Federal Circuit issued its opinion in *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 308 F.3d 1193 (Fed. Cir. 2002). That case is now considered a leading case on the use of dictionaries to construe claim language. In that case, the court held that it is the issue date of the patent that is relevant to determining the use of a dictionary in construing language in a claim. In that case the court stated:

When a patent is granted prosecution is concluded, the intrinsic record is fixed, and the public is placed on notice of its allowed claims. Dictionaries, encyclopedias, and treatises, publicly available at the time the patent is issued (*emphasis added*), are objective resources that serve as reliable sources of information on the established meanings that would have been attributed to the terms of the claims by those of skill in the art. Such references are unbiased reflections of common understanding not influenced by expert testimony or events subsequent to the fixing of the intrinsic record by the grant of the patent, not colored by the motives of the parties, and not inspired by litigation. ...

308 F.3d at 1202-03

However, whether or not the issue date of the patent or the filing date of the patent application is used, the dictionary meanings of the terms "managing" and "monitoring" are the same. In the Tenth Edition of Merriam Webster's Collegiate Dictionary "managing" is defined as "to exercise executive, administrative, and supervisory direction of ..." "Monitoring" is defined as "to watch, keep track of, or check ..." These entries are attached hereto as Exhibit A. Applicants submit that these meanings in the Merriam Webster's Dictionary, which bears a

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Reply to Office Action of January 29, 2003

copyright of 1995, set forth the same meanings as the Oxford Dictionary previously cited by Applicants.

Accordingly, Applicants submit that the term "CPU manages and monitors the digital logic component" is supported by the disclosure.


The Examiner now agrees that the CPU manages the combining process. However, the Examiner contends that the disclosure does not support the CPU managing the serializer. Applicants respectfully traverse this rejection, but have amended claim 57. Thus, the rejection is moot. Applicants, however, want to make it clear that this amendment is submitted without them in any way agreeing that the Examiner's position has any merit, without abandoning the subject matter and without dedicating such subject matter to the public. Applicants specifically reserve the right to file a continuation or any other form of application to obtain all appropriate claim coverage to which they are entitled.

Should the Examiner determine that anything further is necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the Applicants undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment, caused by this filing to Deposit Account Number 04-1425.

Dated: July 28, 2003

Respectfully submitted,



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Enclosure: Exhibit A

EXHIBIT A



Merriam- Webster's Collegiate® Dictionary

TENTH EDITION

Merriam-Webster, Incorporated
Springfield, Massachusetts, U.S.A.

he Preface to
m-Webster's



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